

REMARKS

State of the Claims

Claims 16-38, 43-46 and 49-56 are pending. Claims 35-38, 43-46 and 49-56 have been canceled without prejudice. Claims 16, 17, 20, 23, 24 and 27 have been amended to provide a clearer distinction of customization in delayed dilution, delayed mixing and delayed filtering from of the references cited. All amendments are fully supported by the specification. No new matter has been added.

35 U.S.C. § 112 Rejection

Claims 31-34 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Specifically, the Examiner notes that it is not clear what the term “Global Assimilation Customization Systems” encompasses. Also, the Examiner inquires whether the above term is a trademark.

The term “Global Assimilation Customization System” is fully disclosed and described in Applicants’ specification.¹ So long as each term that Applicants use in their claims has the proper antecedent basis (where required) and is fully supported by the specification, that term is legitimate and may be used in the claims.

Applicants therefore request reconsideration and allowance of Claims 31-34 over the Examiner’s 35 U.S.C. § 112, second paragraph, rejection.

35 U.S.C. § 102(b) Rejection

Claims 35, 43, 49, 50 and 52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kondo, et al. (U.S. Patent No. 4,815,633). Claims 35, 43, 49, 50 and 52 have been canceled without prejudice. Therefore, the Examiner’s rejection against these claims has been obviated.

¹ Applicants’ Specification: page 18, lines 6-36 to page 19, lines 1-10; “Additionally, the customization interface may be continually assimilating available data to increase customization capability and ongoing recommendations. In a particularly prepared embodiment of the system of the present invention, this type of information and inputs are continually monitored, updated, and refined, to changes and predicts options tailored to individual consumers; this aspect of information processing is Global Assimilator Customization System.” [Emphasis Added.]

35 U.S.C. § 103 Rejection

Claim 56 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application No. JP 9-198,570 (Sakata, et al.). Claims 56 has been canceled without prejudice. Therefore, the Examiner's rejection has been obviated.

Claim 55 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakata '570 in view of U.S. Patent No. 3,652,292 (Bach, et al.). Claim 55 has been canceled without prejudice. Therefore, the Examiner's rejection has been obviated.

Claims 16-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo '633 in view of Sakata '570.

The Examiner states that Kondo '633 discloses a method of delivering a customized beverage product as claimed wherein there is a provided a customization device, the customization device processes inputted information, and same causes a device to deliver the customized beverage. The Examiner further contends that Sakata '570 teaches preparation of a coffee beverage involving creating a coffee extract that is stored for times within the limits of the instant invention prior to dilution of same. The Examiner concludes that it would have been obvious to one having ordinary skill in the art at the time of the invention to have included such a dilution delay to impart greater quality and efficiency in the preparation of the coffee beverage.

Applicants respectfully disagree with the Examiner. Applicants have amended Claims 16, 17, 20, 23, 24 and 27 to reflect that their diluting, mixing, and/or filtering is customized according to the individual, inputted preferences of a consumer. Applicants contend that the combination of Kondo '633 in view of Sakata '570 does not meet Applicants' invention but instead teaches away from their invention.

The Kondo/Sakata device teaches away from Applicants' invention, because the device does not provide for customized dilution, mixing, and/or filtering. In fact, the Kondo/Sakata device indicates that their dilution mechanism is an unalterable preset (i.e., is not customizable) that cannot be manipulated either by a consumer or by an operator; e.g., "[T]he beverage with a 2x concentration is diluted two times, and the beverage with a 3x concentration is diluted three times."² Customized strength control is achieved by customized dilution relative to a consumer's strength preference. The Kondo/Sakata device eliminates a consumer's ability to choose her strength preference and thus teaches away from Applicants' customizable method for delivering a customized beverage product.

In an interview between the Examiner, Applicant (Roger Gutwein) and Applicant's Attorney (Theodore P. Cummings, Esq.) on June 12, 2003, the Examiner agreed with Applicant and Applicant's Attorney that Sakata '570 indeed did not teach customization via delayed filtering for strength control. The reasoning for such agreement derives from the proper interpretation of Sakata '570 noted herein and communicated to the Examiner at the above-noted interview. Therefore, the customization element is missing and Sakata '570 should be withdrawn as a reference against Applicants' claims.

Therefore, Applicants request reconsideration and allowance of Claims 16-34 over the 35 U.S.C. § 103(a) rejection.

Claims 36-38, 44 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo '633. Claims 36-38, 44 and 46 have been canceled without prejudice. The rejection against these claims is therefore obviated.

Claims 51, 53 and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo '633 in view of U.S. Patent No. 6,055,513 (Katz, et al.). Claims 51, 53 and 54 have been canceled without prejudice. Therefore, the rejection against these claims has been obviated.

Claim 45 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo '633 in view of U.S. Patent No. 6,177,093 (Lombardi, et al.). Claim 45 has been canceled without prejudice. The rejection against Claim 45 is therefore obviated.

² Japanese Patent Application No. JP 9-198,570: page 6, lines 4-6.

SUMMARY

The rejections in the Office Action have been discussed and, Applicants believe, the proper amendments have been set forth to address the rejections.

In light of both the amendments and the discussions contained herein, Applicants respectfully request reconsideration of the rejections and their withdrawal.

Issuance of a Notice of Allowance at an early date is earnestly solicited.

Respectfully submitted,

ROGER WILLIAM GUTWEIN, ET AL.

By: 

Theodore P. Cummings, Esq.
Attorney for Applicants
Registration No. 40,973
(513) 634-1906

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